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In re Application of
Gellrich et al.
Application No.: 10/566,196
PCT No.: PCT/EP04/07186
Int. Filing Date: 02 July 2004
Priority Date: 01 August 2003
Attorney Docket No.: LO29-030
For: Optical Imaging Device Having
At Least One System Diaphragm

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DECISION

This is in response to the declaration of the inventors filed on 25 July 2006.

BACKGROUND

This international application was filed on 02 July 2004, claimed an earlier priority date of 01 August 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 03 March 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 01 February 2006. Applicant filed *inter alia* the basic national fee on 30 January 2006.

On 11 July 2006, a Notification Of Missing Requirements... (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

DISCUSSION

Inspection of the declaration document filed on 25 July 2006 reveals that it names and inventor, Martin E. Humphries, who is not nominated in the published international application. Review of the application file reveals no indication that he was added during the international phase. As such, it appears that a submission under 37 CFR 1.497(d) may be appropriate.

Further inspection of the declaration reveals that it appears to have been compiled from individual sheets signed by the inventors (as opposed to presenting complete copies of each declaration as signed). Applicants' attention is drawn to MPEP 201.03, which explains in part that

While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration. For example, where the inventive entity is A and B, a declaration may not be executed only by A naming only A as the inventor and a different

declaration may not be executed only by B naming only B as the inventor, which two declarations are then combined into one declaration with a first page of boiler plate, a second page with A's signature, and a second page with B's signature (so that it appears that the declaration was executed with the entire inventive entity appearing in the declaration when it did not).

Since the declaration does not name the same inventive entity as the published international application, and since it appears to have been compiled as described above, it would not be appropriate to accept it at this time.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

Any request for reconsideration of this decision must be filed within **TWO (2) MONTHS** of the mailing date of this decision (extendable under 37 CFR 1.136(a)). Failure to timely reply will result in **ABANDONMENT**.

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, P.O. Box 1450, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter marked to the attention of the PCT Legal Office.



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